

AGENDA

MALVERN CITY COUNCIL

Monday, March 14, 2022

First Baptist Church Family Life Center, 6:30 PM

I. CALL MEETING TO ORDER

II. INVOCATION

III. ROLL CALL

IV. APPROVE MINUTES OF THE PREVIOUS MEETING

A. Regular Meeting – February 14, 2022

V. DEPARTMENT REPORTS

- A. Finance Report
- B. Street Department Report
- C. Police Report
- D. Fire/CEO Report
- E. Animal Control Report
- F. LifeNet Report
- G. Water Works Report

VI. OLD BUSINESS

VII. NEW BUSINESS

- A. Approve Water Service to Sand Road
- B. Resolution Condemning Properties
- C. Authorize Mayor to Sign Lease for Animal Control Property
- D. Resolution Setting Public Hearing for Closing Undeveloped Portion of Hot Springs Street
- E. Amend Noise Ordinance

VIII. MAYOR REPORTS

IX. ADJOURNMENT

MINUTES OF THE MALVERN CITY COUNCIL
Monday, March 14, 2022
FIRST BAPTIST CHURCH FAMILY LIFE CENTER
6:30 P.M.

The Malvern City Council met for its regular monthly meeting on Monday, March 14, 2022, at 6:30 p.m. in the Family Life Center of First Baptist Church, 531 S. Main Street.

Mayor Brenda Weldon called the meeting to order. Council Member Mary Fraction led the invocation and pledge of allegiance. Answering the roll call were Council members Mary Fraction, William Wilson, Lynn Davis, Wayne Reynolds, Matthew Keenan, David Cross and Larry Stiles with Peggy Lusinger absent. Also present were City Clerk/Treasurer Phyllis Dial and City Attorney Cecilia Ashcraft.

A motion was made by Council Member Matthew Keenan, seconded by Council Member Wayne Reynolds to approve the minutes of the regular meeting held on February 14, 2022. Voting for the motion were Council Members Fraction, Wilson, Davis, Reynolds, Keenan, Cross and Stiles with Lusinger absent. All present voting for, motion carried, and the minutes of the previous meeting were adopted.

A motion was made by Council Member Lynn Davis, seconded by Council Member Matthew Keenan, to accept the Departmental Reports as posted. Voting for the motion were Council Members Fraction, Wilson, Davis, Reynolds, Keenan, Cross and Stiles with Lusinger absent. All present voting for, and the reports were accepted.

There was no old business to come before the Council. Mayor Weldon told the Council that the sponsors of Malvern Cruise Night were present and would like to present their case to the City Council since they were not aware of the topic being discussed at the agenda meeting last week. She stated that she would like for the Council to open the meeting to allow one representative from each side to speak to the Council. A motion was made by Reynolds, seconded by Stiles to open the agenda to allow for a representative in favor of, and against, the Cruise Nights and burnouts to speak to the Council. Voting for the motion were Council Members Fraction, Wilson, Davis, Reynolds, Keenan, Cross and Stiles with Lusinger absent. All present voting for, the motion carried.

Mayor Weldon stated that before she recognized Mr. Phillips, she wanted the people to know that when the cruise night was organized and started, the Council was 100% in support of the activity. The "drifting" and "burnouts" were added and the Council has become aware that they are disturbing to the neighbors in the area, so she wanted it to be clear that the complaints are *not* against the cruising. She said that she would allow each group to have one

MINUTES OF THE MALVERN CITY COUNCIL
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representative to speak to the Council for five minutes. Mayor Weldon recognized Scott Phillips from Malvern Cruise Night to address the City Council.

Mr. Phillips stated that he has a petition signed by approximately fifty-eight residents plus over two hundred comments on Facebook that are supporting Cruise Night. He said that they are a group of car and motorcycle enthusiasts that like to get together and look at cars and relive the days of yesteryear when the young people "cruised" town on the weekends. He said that the event is held monthly, and they have added a "burnout box" to the event. He stated that he would like it made clear that the "drifting" is a separate event and is not sponsored by Malvern Cruise Night. That event has been shut down.

Mr. Phillips stated that he was not aware that the neighbors were coming to the Council's agenda meeting last week to complain about the event; as it was his understanding that they were working together to obtain a special use permit from the Planning Commission for the burnouts once a month; but then they received the letter stating that the burnouts would no longer be allowed. Mr. Phillips said that Cruise Night Malvern is a free event, held at 1400 E. Page, and that the property is owned by Kenny Rogers who allows them to use the property. He stated that they are also a volunteer organization that support several charity events, such as Backpacks for Kids at the beginning of school, and a trunk or treat to provide candy for kids at Halloween. Mr. Phillips told the Council that there is an area taped off specially for the burnouts and they are held for about 1-2 hours from 7-9 p.m. They would like a special event permit to allow them to host the burnouts and stereo competition and those dates will be advertised to the public in the newspaper and posted on Facebook. He stated that they are asking for the same consideration as football games which are also heard within neighborhoods. He stated that he does not care anything about sporting events, but he knows that they are a special event only held for certain hours and that noise is something he just has to deal with.

Mayor Weldon asked the Council if there were any questions for Mr. Phillips. Alderman Stiles asked how often the burnouts are held, and Council Member Davis asked how long they last. Phillips stated that they host cruise night for approximately 8 months out of the year, and the burnouts are held monthly from 7-9 p.m. They did hold the burnouts from 8-10 p.m. but moved them back an hour to try and accommodate the feelings of the neighbors. Alderman Stiles asked if the vehicles are all "street legal" and Mr. Phillips replied that they were.

Alderman Keenan asked about the sound/stereo competition. Mr. Phillips said that Box Boys of Little Rock came down and gave a demonstration of audio

MINUTES OF THE MALVERN CITY COUNCIL
Monday, March 14, 2022
FIRST BAPTIST CHURCH FAMILY LIFE CENTER
6:30 P.M.

equipment. The event center behind them complained that the noise was interrupting a wedding reception being held at the event center, and so they shut it down when they received the complaint. Mr. Phillips said that they are asking to get it permitted and that the date would be advertised so as not to interfere with other events. Alderman Keenan asked if safety precautions are taken during the events. Mr. Phillips stated that they are fully insured, and the burnout area is blocked off by concrete barricades. There are also two spotters in orange shirts with spotlights that wave the participants in and out of the burnout area and stop them if they feel they are being unsafe. Also, all cars are parked at least 6 ft from the barricades.

Alderman Cross asked if they had spoken with their neighbors about the complaints. Mr. Phillips stated that he had not, but he also has support from some people who live in the area, and again referenced the noise perpetuated by football games and the concerts at Brickfest. Attorney Ashcraft advised that there is a difference between a football stadium or a stage, stating that these structures are constructed for those types of events and the neighbors know exactly what they are getting when they move into a neighborhood, while this event is held on a commercial parking lot not constructed for that purpose. She said that was comparing apples to oranges. Mr. Phillips said that they have raised money to repave property they do not own. Alderman Cross stated that he had been through something similar in his neighborhood and the complaints have to be addressed.

Alderman Stiles asked if there are any other events like this in Arkansas where they host the burnouts along with the car show. Mr. Phillips said there were none he was aware of, that they all travelled here. Alderman Cross stated that usually an event like this would be held in a fairground. Alderman Stiles asked if the other car shows create noise, and Mr. Phillips said that they do not have the burnout box. City Attorney Ashcraft read the current noise and nuisance ordinance adopted in 1958. Mr. Phillips said that there was nothing he heard in the ordinance about requiring the noise to stop at 10 p.m., and that the Police had always told them they had to stop by 10 p.m. Alderman Cross said that in his opinion, that just sounded like the police department was trying to be really reasonable with them. Attorney Ashcraft said that the zoning ordinance does not permit this type of event, and to change the zoning, a petition has to be filed by the property owner.

With no more questions from the Council, Mayor Weldon recognized Duane Sowell, who owns the event center behind the parking lot where cruise night is held. Mr. Sowell told the Council that his concern is not the car show, but the burnouts and noise from the stereo contest. He played a video taken by

MINUTES OF THE MALVERN CITY COUNCIL
Monday, March 14, 2022
FIRST BAPTIST CHURCH FAMILY LIFE CENTER
6:30 P.M.

a patron of his video. Mr. Phillips and several other citizens in the group said that video was of the drifting, which is not a part of their events. Mr. Sowell stated that prime time for his business is 8-10 p.m. on Saturday nights and that the noise from the burnouts reverberate out of the hole where the parking lot is. He said that he is opposed to the burnouts and the noise and smell they cause. Alderman Cross asked if Mr. Sowell was open to once per year for the burnouts with a permit. Mr. Sowell stated that he would not complain about once per year, but his business cannot afford to shut down for several months a year. He also stated it is not just the event center that is affected, and the neighborhoods should not have to experience the noise and smell that come from the burnouts. Some options were discussed, and it was suggested that they move the burnouts to from 7-8:30. Mr. Sowell stated that was not acceptable, but that he could perhaps live with from 12 noon to 2 p.m. His prime rental times are 4-10 p.m. on Saturdays.

Under new business, Council Member Keenan made a motion, seconded by Council Member Mary Fraction to grant water service to customers on Sand Road. Voting for the motion were Council Members Fraction, Wilson, Davis, Reynolds, Keenan, Cross and Stiles with Lusinger absent. All voting for, motion carried.

Council Member Davis introduced a resolution condemning property within the city limits of Malvern. City Attorney Ashcraft read the resolution. A motion was made by Alderman Wilson, seconded by Alderman Keenan, to adopt the resolution. Voting for the motion were Council Members Fraction, Wilson, Davis, Reynolds, Keenan, Cross and Stiles with Lusinger absent. All present voting for, motion carried, and the resolution was declared adopted and assigned No. 03-2022.

RESOLUTION NO. 03-2022

**A RESOLUTION CONDEMNING CERTAIN PROPERTIES IN THE CITY
OF MALVERN, ARKANSAS AS UNFIT AND UNSAFE STRUCTURES**

Council Member Keenan made a motion, seconded by Council Member Stiles to authorize Mayor Weldon to sign a lease with Baptist Medical Center to obtain an additional 1.225 acres adjacent to the city's animal shelter for expansion. Voting for the motion were Council Members Fraction, Wilson, Davis, Reynolds, Keenan, Cross and Stiles with Lusinger absent. All voting for, motion carried.

MINUTES OF THE MALVERN CITY COUNCIL
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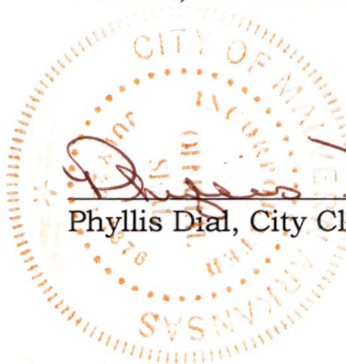
Alderman Reynolds introduced a resolution setting a public hearing to hear comments on the requested closing of an undeveloped portion of Hot Spring Street by Gracepointe Apostolic Church. City Attorney Ashcraft read the resolution. A motion was made by Alderman Reynolds, seconded by Fraction, to adopt the resolution. Voting for the motion were Council Members Fraction, Wilson, Davis, Reynolds, Keenan, Cross and Stiles with Lusinger absent. All present voting for, motion carried, and the resolution was declared adopted and assigned No. 04-2022.


RESOLUTION NO. 04-2022


**A RESOLUTION FIXING DAY FOR HEARING OF PETITION TO CLOSE
THE UNDEVELOPED PORTION OF HOT SPRING STREET IN THE CITY OF
MALVERN**

Upon a motion by Alderman Cross, seconded by Alderman Reynolds, the Council voted to table the ordinance amending the city's nuisance ordinance until the April meeting. Voting for the motion were Council Members Fraction, Wilson, Davis, Reynolds, Keenan, Cross and Stiles with Lusinger absent. All present voting for, the motion carried, and the ordinance was declared tabled.

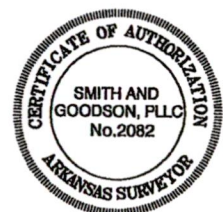
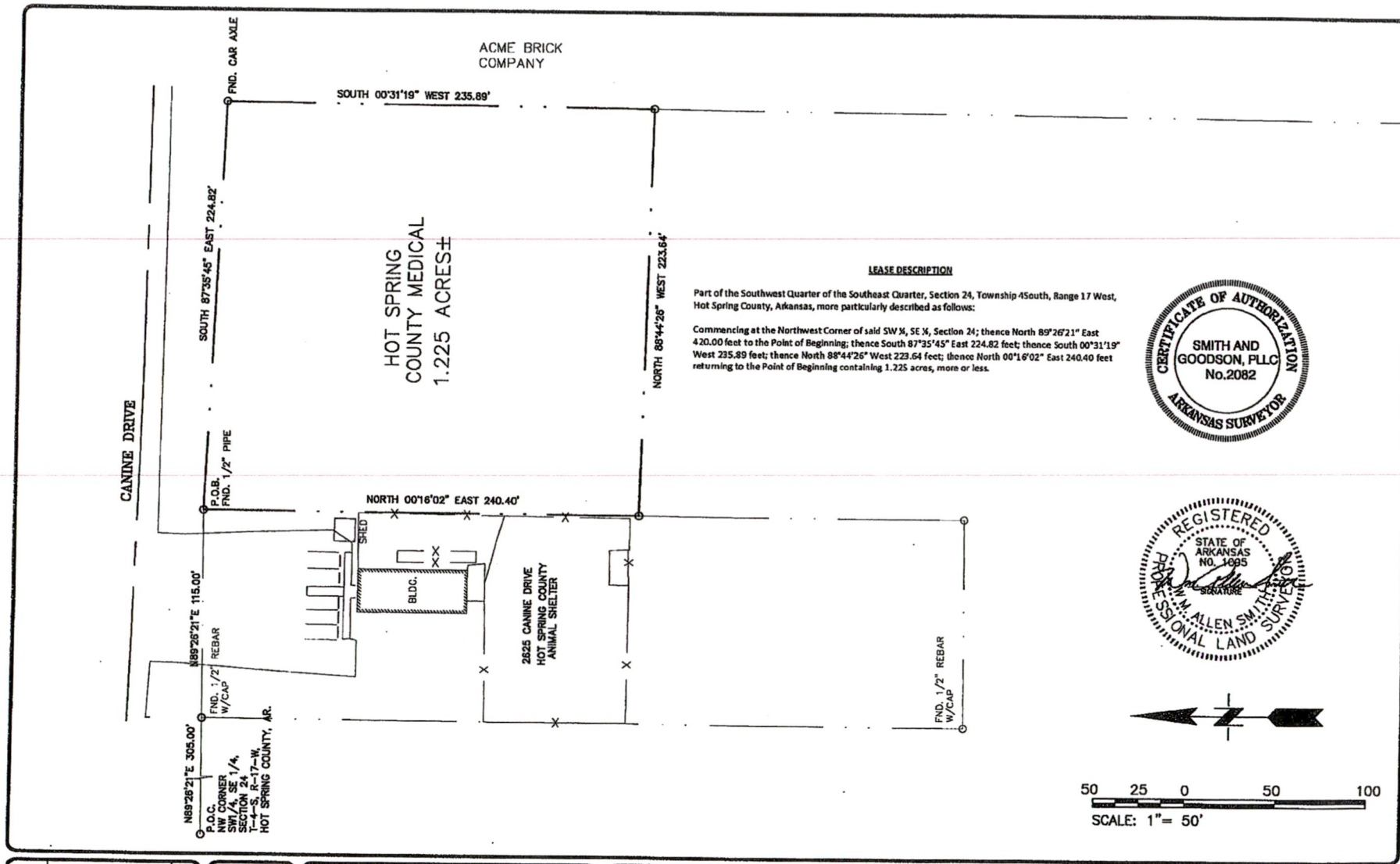
A motion was made by Alderman Reynolds, seconded by Council Member Keenan, to adjourn. With no further business to come before the Council, the meeting was declared adjourned.




Phyllis Dial, City Clerk/Treasurer


Brenda J. Weldon, Mayor

Item 7-C



50 25 0 50 100
SCALE: 1"= 50'

Date	Notes	By

Designed
Checked YAS
Drawn SDG
Approved YAS

SMITH AND GOODSON
P.L.L.C.
CIVIL ENGINEERING AND LAND SURVEYING
7500 CANTRELL ROAD, SUITE 227
LITTLE ROCK, ARKANSAS 72207
501-414-8488

LEASE EXHIBIT

FOR THE USE AND BENEFIT OF:
City of Malvern, Arkansas

Job: 81-107
Scale: 1"=50'
Date: 8-23-2028
Sheet: 1-1